

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

MISS GLENN A. PORTER,

Plaintiff,

V.

**SCOTT CROW, Director, Oklahoma
Department of Corrections, et al.,**

Defendants.

Case No. 18-CV-0472-CVE-CDL

ORDER


This matter is before the Court on the “stipulation of dismissal” (Dkt. # 110) filed by plaintiff’s counsel on November 4, 2021. In the “stipulation,” plaintiff’s counsel purports to dismiss, with prejudice, all causes of action in the first amended complaint (Dkt. # 49) against all defendants, under FED. R. CIV. P. 41(a)(2). At this stage of the litigation, plaintiff has only two options for dismissal under Rule 41(a). First, plaintiff may voluntarily dismiss this action, without a court order, by filing a stipulation of dismissal signed by all parties who have appeared. FED. R. CIV. P. 41(a)(1)(A)(ii). Second, plaintiff may request dismissal “on terms that the court considers proper” by filing a motion to dismiss this action. FED. R. CIV. P. 41(a)(2).

Because the “stipulation” is not signed by all parties who have appeared, the Court construes the “stipulation” as a motion to dismiss under Rule 41(a)(2). Plaintiff’s counsel represents, and the record supports, that plaintiff is deceased, that no individual has presented as a successor in interest to plaintiff’s claims, and that plaintiff’s claims were injunctive in nature and thus do not survive her death. Under these circumstances, the Court finds it appropriate to grant plaintiff’s motion to dismiss, with prejudice, all claims against all defendants as asserted in the first amended complaint.

ACCORDINGLY, IT IS HEREBY ORDERED that:

1. The “stipulation of dismissal” (Dkt. # 110) is **construed as** a motion to dismiss this action under FED. R. CIV. P. 41(a)(2) and is **granted**.
2. The first amended complaint (Dkt. # 49) is **dismissed with prejudice** as to all claims against all defendants.
3. This is a final order terminating this action.

DATED this 8th day of November, 2021.



CLAIRE V. EAGAN
UNITED STATES DISTRICT JUDGE